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C O N F I D E N T I A L SECTION 01 OF 02 MADRID 002041

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E.O. 12958: DECL: 10/25/2017
TAGS: [CJAN](#) [CIVS](#) [KCRM](#) [PGOV](#) [PREL](#) [PTER](#) [SP](#)
SUBJECT: SPAIN: NATIONAL COURT VOTES IN FAVOR OF THE
EXTRADITION OF SYRIAN ARMS DEALER MONZER AL-KASSAR

REF: SECSTATE 100867

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Classified By: Ambassador Eduardo Aguirre for reasons 1.4 (B) and (D)

11. (C) On October 26, the Fourth Section of the Criminal Division of the Spanish National Court made public its 2-1 vote to accept the extradition to the U.S. of Syrian arms dealer Monzer al-Kassar. Judge Teresa Palacios presided over the October 4 extradition hearing and voted against remanding Al-Kassar to U.S. custody, while her two deputy Magistrates voted in favor of the prosecution. We believe that al-Kassar will now appeal and his case will go before a 12-member panel that will decide whether to hear the appeal. If they choose to take up the case, they will have two months to hand down a decision. If Al-Kassar loses there, he can appeal to the Constitutional Court claiming his civil rights have been denied him. Al-Kassar's extradition is sought based on REFTEL A request under an indictment filed by the U.S. District Court for the Southern District of New York. That indictment charges Al-Kassar with conspiracy to murder U.S. nationals, conspiracy to kill U.S. officers and employees, conspiracy to acquire and use a missile system designed to destroy aircraft, and conspiracy to provide material resources to the FARC. So far, Spanish cooperation in the Ministries of Justice and Interior, as well as with the prosecutor's office, has been exceptional. However, Al-Kassar has the ample resources to hire a top notch legal defense team, and is well connected in Spanish political and law enforcement circles. He and his allies will use everything in their power to avoid the extradition. For our part, the Ambassador and members of the Country Team will continue to work on a priority basis to ensure that Al-Kassar is extradited and brought to justice in the United States. Shortly after the verdict was announced, Ambassador Aguirre released a statement thanking the National Court for "striking a blow against international terrorism," and saying that the verdict highlighted yet again that Spain and the United States remain united in the fight against terrorism.

//BACKGROUND//

12. (C) Today's decision is the latest step in the legal process that began on June 8 when Spanish police arrested Al-Kassar as he passed through Madrid's Barajas Airport. Previous to the arrest, the case had been worked by DEA agents both in Madrid and Washington and by U.S. attorneys in NYC. Ambassador Aguirre met with high-level Spanish officials, including the Vice President and Minister of

Justice, to outline the charges against Al-Kassar and to explain our request for his extradition. These officials said that they were familiar with Al-Kassar's alleged criminal past and that his extradition was a priority for the GOS, but cautioned that we also needed to wait as the Spanish judicial system ran its course. The case was complicated by Al-Kassar pleading entrapment, and Spanish Judge Juan del Olmo began an investigation of whether DEA agents played the role of "agent provocateur" (as such law enforcement operations are not allowed in Spain). DEA Madrid worked closely with the office of the National Court Chief Prosecutor throughout the investigation to furnish all requested information. Assistant U.S. Attorneys (AUSAs) for the Southern District of New York visited Madrid on 23-25 July to review the extradition case with the Spanish prosecutors who would be arguing in favor of our request. Although Spanish prosecutors indicated their positive disposition towards USG arguments, Al-Kassar hired a strong team of lawyers and has fought the extradition every step of the way.

//THE HEARING//

13. (C) DEA Madrid officers and Embassy's Legal Advisor attended the October 4 extradition hearing in Spain's National Court. The hearing lasted over four hours and featured passionate arguments from both the prosecution and the defense. The defense predictably attacked DEA and accused them of entrapment. The prosecution stressed that Al-Kassar had been caught, not in a "provoked" offense, but rather in a "detected" defense, and laid out the Syrian's extensive history of alleged criminal activity. Al-Kassar's lawyers said that if his client had committed any offenses, then they had been committed in Spain and thus Spain was the only country that could possibly have jurisdiction. At the end of the hearing, Al-Kassar's lawyers were practically

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pleading that their client be tried in Spain, and Judge Palacios ended the proceedings by saying that the decision would be handed down towards the end of October. Post will report further developments as Al-Kassar's appeal moves forward.

//COMMENT//

14. (C) So far, we have enjoyed excellent cooperation from GOS authorities on this case. The Ambassador, DCM and members of the Country Team have had ready access to the relevant officials and have been able to discuss the issues freely with them. Nevertheless, this case is not closed. Al-Kassar is a cunning and dangerous individual with ample resources. He has an able and aggressive defense team. They will appeal every aspect of this case to any court which will hear them, and will probably continue trying to use the press to paint Al-Kassar as a victim of the U.S. In addition to whatever legitimate recourse he may have, Al-Kassar will also undoubtedly use any underhanded means at his disposal. In short, while today's court decision is a welcome victory, there will be a number of legal battles to come in this high-profile case. For our part, the Ambassador and members of the Country Team will continue to work on a priority basis to ensure that Al-Kassar is extradited and brought to justice in the United States.

AGUIRRE